

DEAV2003/0008 US NP
Serial No. 10/773,772

PATENT

Remarks

Upon entry of the forgoing amendments, claims 1 to 5 and 7 are presently pending in this patent application. Claim 1 has been amended, without prejudice. Claim 6 has been cancelled, without prejudice.

In view of the foregoing amendments and the following remarks, reconsideration and withdrawal of the rejections are respectfully requested.

Discussion of the 35 U.S.C. § 102(b) Rejection

Claims 1 to 7 have been rejected under 35 U.S.C. § 102(b) as being allegedly anticipated by U.S. Patent No. 5,648,333 to Henke et al. ("Henke"). Applicants respectfully traverse this rejection as Henke does not teach, nor does it even suggest, Applicant's claimed invention as defined by claim 1.

Amended claim 1 defines a "method for treating a degenerative joint disease, in a patient in need thereof, wherein said degenerative joint disease is selected from the group consisting of osteoarthritis, spondyloses and cartilage atrophy". Osteoarthritis, spondylosis and cartilage atrophy are diseases which are *not* generally characterized as inflammatory (*see, e.g.*, specification at page 8, lines 15 to 30). Henke, in contrast, discloses a method of treatment of *inflammation* and the inflammation based disease arthritis.

In this regard, Henke teaches a method for the treatment of a pathological state which is mediated, caused or supported by bradykinin and bradykinin-related peptides in a patient, such as, for example, arthritis and inflammation (Henke at col. 17, lines 10-18). The Action defines arthritis as "*inflammation* of a joint" (Action at 5). Thus, since osteoarthritis, spondylosis and cartilage atrophy are *non-inflammation* based diseases, Applicants' claimed conditions are not taught or suggested by Henke.

Further, it is known that bradykinin and bradykinin-related peptides have pharmacological effects that lead to inflammation (see specification at page 1, lines 27-28). There is no evidence in the prior art that the non-inflammation based diseases osteoarthritis, spondylosis and cartilage atrophy are caused by the effect of bradykinin and bradykinin-related peptides (and the Action fails to provide any such evidence). Thus, there is no evidence Henke discloses each and every element of Applicant's claimed invention.

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Discussion of the 35 U.S.C. § 103(a) and Double Patenting Rejection

Claims 1 to 7 have been rejected under 35 U.S.C. § 103(a) as allegedly being obvious in view of Henke. Claims 1 to 7 have further been rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being obvious in view of the claims of Henke. Applicants respectfully traverse these rejections.

Since, as discussed above, Henke does not teach or suggest a method for treating osteoarthritis, spondyloses or cartilage atrophy, Henke does not render obvious the claimed invention. Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. § 103(a) and obviousness-type double patenting based upon Henke are respectfully requested.

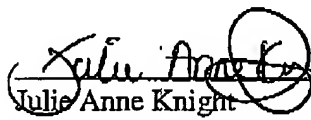
Conclusion

The foregoing is submitted as a full and complete response to the Action mailed on November 7, 2005, and the allowance of all claims is respectfully requested. If there are any issues that can be resolved by a telephone conference or an Examiner's amendment, the Examiner is invited to call the undersigned attorney at (908) 231-3679.

The Commissioner is hereby authorized to charge the fee required and any additional fees that may be needed to Deposit Account No. 18-1982 in the name of Aventis Pharmaceuticals Inc.

Respectfully submitted,

Dated: February 6, 2006


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